

Appendix G: Participant Safeguards

Appendix G-1: Response to Critical Events or Incidents

- a. **State Critical Event or Incident Reporting Requirements.** Specify the types of critical events or incidents (including alleged abuse, neglect and exploitation) that the State requires to be reported for review and follow-up action by an appropriate authority, the individuals and/or entities that are required to report such events and incidents, and the timelines for reporting. State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

The Department has written policies detailing the process of monitoring for abuse, neglect, or exploitation. The policies require the Case Management entity to gather specific information and report at the time they become aware of incident to various responsible parties.

Depending on the situation, the Case Management entity could potentially report the incidents or suspicions to tribal entities, State regional Human Service Centers, Vulnerable Adults Protective Services (VAPS), Long Term Care Ombudsman, Health Department, Protection and Advocacy, law enforcement, and/or the Department of Human Services.

The incidents could result in continued monitoring, termination of providers, removal of client from residences, arrest by law enforcement, or if allegations are not supported, it is considered unsubstantiated.

Allegations or suspicions are reported to responsible parties. When client is not at imminent risk, the Case Manager works with the client or responsible parties to provide assistance and resolution.

The information is typically received via telephone or e-mail. However, can also be obtained from letters, face-to-face, review process, or through general discovery.

- b. **Participant Training and Education.** Describe how training and/or information is provided to participants (and/or families or legal representatives, as appropriate) concerning protections from abuse, neglect, and exploitation, including how participants (and/or families or legal representatives, as appropriate) can notify appropriate authorities or entities when the participant may have experienced abuse, neglect or exploitation.

The clients, or their legal representatives, will receive a “client’s rights” brochure describing their rights and their responsibility to also self-report. On the brochure, the Case Manager will list their name and contact information for the Case Management entity.

For Attendant Care Service, the comprehensive care plan developed by the nurse manager will outline critical incident reporting process.

- c. **Responsibility for Review of and Response to Critical Events or Incidents.** Specify the entity (or entities) that receives reports of critical events or incidents specified in item G-1-a, the methods that

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are employed to evaluate such reports, and the processes and time-frames for responding to critical events or incidents, including conducting investigations.

Case Managers or others persons providing a report of abuse, neglect or exploitation provide the to a Department HCBS Program staff person and that individual follows through by working with the Case Manager to assist with the investigation of the complaint or concern identified

The incidents could result in continued monitoring, termination of providers, removal of client from residences, arrest by law enforcement, or if allegations are not supported, it is considered unsubstantiated.

Depending upon the incident, there are several entities that are alerted to the allegations. If the accused person is not a provider, the complaint is referred to the Vulnerable Adults Protective Services (VAPS) for resolution. If the accused is a provider the Department HCBS Program staff person works with the Case Manager and determines a resolution. If the case is involved a individual with Developmental Disabilities the DD Division and Protection and Advocacy are contacted for resolution. If the case involves Adult Family Foster Care Clients the Licensing Agents responsible for AFFC licensing are contacted for resolution. If the case involves a client residing in a Basic Care or Assisted living facility the Long Term Care Ombudsman is contacted for resolution and depending on the concern the North Dakota Department of Health or the Departments Agent responsible for Assisted Living Licensure may be involved. If the complaint presents an imminent risk or potential criminal activity law enforcement is contacted for resolution.

When an individual is receiving Attendant Care Service, the delegating nurse plus the Case Manager become a part of the information gathering and assessment of the situation. If the critical incident is in relation to a health or medical critical incident (versus abuse, neglect, or exploitation), the nurse is to report the incident to the State Program Administration upon discovery. The State Program Administration has written protocol and policy to address medical/health incidents.

Response time to complaints depends on severity, all complaints and concerns are addressed within 30 days.

When appropriate either the case manager or the Department will inform interested parties including the client or responsible party of the resolution of the complaint.

- d. Responsibility for Oversight of Critical Incidents and Events.** Identify the State agency (or agencies) responsible for overseeing the reporting of and response to critical incidents or events that affect waiver participants, how this oversight is conducted, and how frequently.

With the addition to the information supplied in the previous sections, the State will conduct on-site reviews of a service provider or on-site Client Interviews if there is an allegation of a critical incident.

If the incident involves the assistance of Protection and Advocacy, the Health Department or a Department of Human Services Long Term Care Ombudsman, the State will contact these individuals for assistance in the assessment/evaluation of the allegation. These various entities would then determine if separate on-site investigations should occur.

For Attendant Care Service, the comprehensive care plan developed by the nurse manager will outline critical incident reporting process. The nurse manager must report to the State Program

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Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions

This Appendix must be completed when the use of restraints and/or restrictive interventions is permitted during the course of the provision of waiver services regardless of setting. When a state prohibits the use of restraints and/or restrictive interventions during the provision of waiver services, this Appendix does not need to be completed except for Item G-2-c-ii.

a. Applicability. Select one:

X	This Appendix is not applicable. The State does not permit or prohibits the use of restraints or restrictive interventions (<i>complete only Item G-2-c-ii</i>)
C	This Appendix applies. Check each that applies:
<input type="checkbox"/>	The use of personal restraints, drugs used as restraints, mechanical restraints and/or seclusion is permitted subject to State safeguards concerning their use. <i>Complete item G-2-b.</i>
<input type="checkbox"/>	Services furnished to waiver participants may include the use of restrictive interventions subject to State safeguards concerning their use. <i>Complete item G-2-c.</i>

b. Safeguards Concerning Use of Restraints or Seclusion

- i. Safeguards Concerning the Use of Restraints or Seclusion.** Specify the safeguards that the State has established concerning the use of each type of restraint (i.e., personal restraints, drugs used as restraints, mechanical restraints or seclusion). State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

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- ii. State Oversight Responsibility.** Specify the State agency (or agencies) responsible for overseeing the use of restraints or seclusion and ensuring that State safeguards concerning their use are followed and how such oversight is conducted and its frequency:

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c. Safeguards Concerning the Use of Restrictive Interventions

- i. Safeguards Concerning the Use of Restrictive Interventions.** Specify the safeguards that the State has in effect concerning the use of interventions that restrict participant movement, participant access to other individuals, locations or activities, restrict participant rights or employ aversive methods (not including restraints or seclusion) to modify behavior. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency.

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ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring and overseeing the use of restrictive interventions and how this oversight is conducted and its frequency:

The ND Department of Human Services and the Department of Health monitors the use of restraints in residential facilities and through Adult Family Foster Care licensure.

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Appendix G-3: Medication Management and Administration

This Appendix must be completed when waiver services are furnished to participants who are served in licensed or unlicensed living arrangements where a provider has round-the-clock responsibility for the health and welfare of residents. The Appendix does not need to be completed when waiver participants are served exclusively in their own personal residences or in the home of a family member.

a. Applicability. Select one:

<input checked="" type="radio"/>	Yes. This Appendix applies (<i>complete the remaining items</i>).
<input type="radio"/>	No. This Appendix is not applicable (<i>do not complete the remaining items</i>).

b. Medication Management and Follow-Up

- i. Responsibility.** Specify the entity (or entities) that have ongoing responsibility for monitoring participant medication regimens, the methods for conducting monitoring, and the frequency of monitoring.

Basic Care Facilities that provide TBI and Adult Residential Services have ongoing responsibility for medication regimen based on their Basic Care Licensure.

- ii. Methods of State Oversight and Follow-Up.** Describe: (a) the method(s) that the State uses to ensure that participant medications are managed appropriately, including: (a) the identification of potentially harmful practices (e.g., the concurrent use of contraindicated medications); (b) the method(s) for following up on potentially harmful practices; and, (c) the State agency (or agencies) that is responsible for follow-up and oversight.

North Dakota Department of Health is responsible for oversight of Basic Care Facilities.

c. Medication Administration by Waiver Providers

- i. Provider Administration of Medications.** *Select one:*

<input checked="" type="radio"/>	Waiver providers are responsible for the administration of medications to waiver participants who cannot self-administer and/or have responsibility to oversee participant self-administration of medications. (<i>complete the remaining items</i>)
<input type="radio"/>	Not applicable (<i>do not complete the remaining items</i>)

- ii. State Policy.** Summarize the State policies that apply to the administration of medications by waiver providers or waiver provider responsibilities when participants self-administer medications, including (if applicable) policies concerning medication administration by non-medical waiver provider personnel. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

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iii. Medication Error Reporting. *Select one of the following:*

<input type="radio"/>	Providers that are responsible for medication administration are required to <i>both</i> record and report medication errors to a State agency (or agencies). <i>Complete the following three items:</i>
	(a) Specify State agency (or agencies) to which errors are reported:
	(b) Specify the types of medication errors that providers are required to <i>record</i> :
	(c) Specify the types of medication errors that providers must <i>report</i> to the State:
<input checked="" type="radio"/>	Providers responsible for medication administration are required to <i>record</i> medication errors but make information about medication errors available only when requested by the State. Specify the types of medication errors that providers are required to record:
	Required to record all errors.

iv. State Oversight Responsibility. Specify the State agency (or agencies) responsible for monitoring the performance of waiver providers in the administration of medications to waiver participants and how monitoring is performed and its frequency.

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